

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

DIRECT MARKETING CONCEPTS, INC., et al.

Defendants.

Civ. No. 04-CV-11136-GAO

**PLAINTIFF THE FEDERAL TRADE COMMISSION'S MOTION TO
STRIKE FIVE OF THE AFFIRMATIVE DEFENSES OF DIRECT MARKETING
CONCEPTS, INC., ITV DIRECT, INC., AND DONALD BARRETT**

Plaintiff the Federal Trade Commission ("FTC" or the Commission") respectfully moves this Court pursuant to Rule 12(f) of the Federal Rules of Civil Procedure for an order striking five of the seven affirmative defenses raised by Defendants Direct Marketing Concepts, Inc. ITV Direct, Inc., and Donald W. Barrett (collectively "Barrett Defendants") in their Answer (Numbers 2, 3, 4, 6, and 7). The challenged affirmative defenses are insufficient as a matter of law and should be stricken.

The FTC has conferred with the Barrett Defendants in a good faith effort to resolve this dispute by agreement but has been unable to do so, thus necessitating the filing of this motion. A memorandum of law as well as a proposed Order, are enclosed.

Dated: August 25, 2004

Respectfully submitted,



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